IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 980 OF 2007
IN
CRIMINAL APPEAL NO. 799 OF 2007.

Irfan Jamal Hajari ....Applicant.
V/s
The State of Maharashtra ....Respondent.

Mr.Shekhar Ingawale, Adv. For the applicant.

Mr.S.R.Shaikh, APP For the respondent.

CORAM: A.P.DESHPANDE, J.
30/11/07

PC:

This is an application for bail filed by the applicant who is convicted for commission of an offence under section 376 of Indian Penal Code and sentenced to suffer R.I. for seven years, pay fine of Rs.1000/- and in default to suffer R.I. for 30 days. Applicant is also convicted u/s.313 of IPC for R.I. for 5 years, pay fine of Rs.1000/- and in default R.I. for 30 days. A further conviction is also recorded u/s.506 of Indian Penal Code for R.I. For five years, pay fine of Rs.500/- and in default R.I. for 15 days. The substantive sentences are to run concurrently.

2. It is the case of the prosecution that the prosecutrix who was 20 years old college going girl had taken a job of health officer in the office conducted by one Mr.Shaikh at Kadamwadi sometime in December, 2004. Nature of the job of the applicant and the

prosecutrix was spreading awareness of hepatitis `B'. The accused as well was working in the same capacity at the same office. There were other seven girls working along with the accused in the said office. The prosecutrix and the accused had taken the job by about the same time and were known to each other. According to the prosecution in June, 2005 when the prosecutrix returned from distributing forms of hepatitis `B' to the office at Kadamwadi to deposit the forms and the amount received by her at about 8.00 p.m. the accused who was present in the office shut the door and dragged the prosecutrix in the first room of the office. Accused is said to have committed rape by gagging mouth of the prosecutrix and by threatening her with dire consequences. The prosecutrix did not inform the said act of the accused for more than a year to any one and for a period of more than one year after commission of said act the prosecutrix and the accused continued to have sexual relation and did have sex at various places including the office and residence of the accused. Marriage of the accused was performed with some other girl on 24.9.06 and it was immediately thereafter for the first time the prosecutrix informed the act of rape committed on her by the accused to her parents on 25.9.06 and lodged a report with the police. It is the case of the prosecution that the accused had promised the prosecutrix that he would marry her. It has also come in the evidence that the prosecutrix along with accused had gone to medical practitioner as the prosecutrix was pregnant and the doctor performed the abortion. According to the prosecution the first act of sexual intercourse committed by the

accused in June, 2005 was without consent and against the will of the prosecutrix. The disclosure thereof by the prosecutrix for the first time is in September 2006. The prosecutrix and the accused come from the same strata of society. Perused the judgment. The applicant has been in custody since his initial arrest for a period of about one year. The appeal preferred by the accused is admitted and is not likely to come up for hearing soon. Having regard to the totality of facts and circumstances I deem it appropriate to release the applicant on bail. Hence I direct that the applicant be released on bail on furnishing security in the sum of Rs.20,000/- with one solvent surety in the like amount. Applicant shall attend the Shahu police station, Kolhapur once a week. Authenticated copy of the order be issued.

30.11.07